

HOUSING CORPORATION REGULATORY CIRCULAR



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*Note: 'housing association' is used as a generic term for registered social landlords.
'Corporation' means Housing Corporation.*

TITLE: **Entry of restriction relating to Section 9 Consent on title of land at the Land Registry**

SUMMARY: **Provides guidance on the Corporation's requirements regarding the mandatory entry by housing associations of appropriate restrictions on the Land Registry title of land acquired by them to meet the Corporation's regulatory functions relating to the requirements of the Housing Act 1996 and the Housing Associations Act 1985.**

These requirements arise as a result of the coming into force on 13 October 2003 of the Land Registration Act 2002 and the Land Registration Rules 2003.

THIS CIRCULAR IS FOR THE ATTENTION OF:

- Registered Social Landlords; more than 250 properties
- Registered Social Landlords; less than 250 properties
- Co-ownership Societies
- Co-ownership Equity Sharing Societies
- Almshouse Charities
- Abbeyfield Societies
- Co-operatives
- Deregistered housing associations
- Solicitors acting for Registered Social Landlords and deregistered housing associations
- Licensed conveyancers acting for Registered Social Landlords and deregistered housing associations

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1 Introduction

- 1.1 Housing associations, deregistered housing associations and certain unregistered bodies require the consent of the Corporation for the disposal of any interest in land. This arises under Section 9 Housing Act 1996 and Section 9 Housing Associations Act 1985.
- 1.2 Under current arrangements in place, when registering land owned by a housing association the Land Registry will enter a restriction requiring section 9 consent for a subsequent disposal. In order for the restriction to be entered on title, the housing association, its solicitor or licensed conveyancer must certify that it is a registered social landlord. This is usually done in the transfer document or in the papers lodged with the transfer documentation.
- 1.3 The Land Registration Act 2002 and the Land Registration Rules 2003 come into effect on 13 October 2003. They replace the existing statutory framework for land registration and introduce significant changes which impact on the Corporation and on all housing associations.
- 1.4 One of the most significant changes is in the way that restrictions will be entered on the title of property by the Land Registry. On or after 13 October 2003 the restriction will NOT be entered on title by the Land Registry in the same way as is currently the case. A housing association must apply for the restriction to be entered on the title each time it registers the acquisition of an interest in land.
- 1.5 A housing association can agree a special arrangement with the Commercial Arrangements Section of the Land Registry. Under such an arrangement, whenever the Land Registry enters that housing association as proprietor it would then enter a particular form of restriction reflecting the limitations on its powers arising from Section 9 Housing Act 1996 without a separate application having to be made in respect of each transaction. The advantage of this is that a housing association will only once need to take steps for the restriction to appear on its Land Registry titles.

2 Corporation Expectations

- 2.1 In order to meet its regulatory responsibilities, the Corporation expects all housing associations to enter into an arrangement with the Commercial Arrangements Section of the Land Registry before 31 January 2004.

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- 2.2 Application must be made by registered post in the form set out in Schedule I of this Circular.
- 2.3 All housing associations must, **before 13 November 2003** notify the Corporation that application has been made to the Commercial Arrangements Section of the Land Registry for an arrangement to be put in place.
- 2.4 All housing associations must before **13 February 2004** notify the Corporation that an arrangement is in place. If an arrangement is not in place by this date, the housing association must notify the Corporation of the delay and the reasons for the delay. The Land Registry has indicated that all applications received before 13 November 2003 will be processed by 31 January 2004.

3 Transitional Provisions

- 3.1 In respect of any application by a housing association to be registered as proprietor of a registered estate which is made between 13 October 2003 and the date on which an arrangement is put in place with the Land Registry, the housing association must apply on a Form RX1 for a restriction in the form set out in Schedule IV of this Circular to be entered on the title being registered.
- 3.2 No fee will be payable for the entry of the restriction if application in Form RX1 is made contemporaneously with an application on which a Scale fee is paid.

4 Assessing Compliance

- 4.1 Any application for Section 9 consent to dispose of land will be subject to compliance with this Circular. No application for consent will be processed in respect of a housing association which has not put an arrangement in place with the Land Registry before 31 December 2003 and notified the Corporation of this or which has not applied for an arrangement to be put in place by 13 November 2003 and notified the Corporation of this.
- 4.2 Each member of a group which is a registered social landlord must separately comply with this Circular.
- 4.3 Compliance will be assessed by the Corporation's Consents Section.

5 Enquiries about this circular should be directed to:



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- 5.1 All enquiries should be directed to the Consents Section at Maple House (020 7393 2075 / 020 7393 2076)

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SCHEDULE 1

Application for an arrangement regarding the entry of Section 9 restrictions

BY REGISTERED POST

To: Mr Colin Scott
Commercial Arrangements Section
Practice Division
HM Land Registry
Lincoln's Inn Field
London, WC2A 3PH

1. [specify name of housing association], having its registered address at [specify registered address] hereby requests a special arrangement under which the Land Registry will enter the form of restriction set out in the Appendix below whenever the Land Registry enters [specify name of housing association] as proprietor, without a separate application having to be made in respect of each transaction.
2. [specify name of housing association] waives its right to notice under Section 42 (3) of the Land Registration Act 2003.

APPENDIX

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed on behalf of the proprietor by its Secretary (or by two trustees, if a charitable trust) or its solicitor or licensed conveyancer that the provisions of Section 9 of the Housing Act 1996 have been complied with.

Dated the day of 2003

Company Secretary / Trustee*

Trustee*

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**This application is to be signed by the Company Secretary, or if the Housing Association is a charitable trust, by two trustees*



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SCHEDULE III

Notice to the Corporation that confirmation has been received from the Land Registry that an arrangement is in place regarding the entry of Section 9 restrictions

To: The Consents Section
Housing Corporation
Maple House
149 Tottenham Court Road
LONDON
W1T 7BN

This is to give NOTICE that [specify name of housing association] having housing corporation number [specify housing corporation number] has received confirmation from the Land Registry that an arrangement is in place relating to the entry of Section 9 restrictions on the titles of land in respect of which it is registered as proprietor.

Dated the day of 200

Company Secretary / Trustee*

Trustee*

**This Notice is to be signed by the Company Secretary, or if the Housing Association is a charitable trust, by two trustees*

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SCHEDULE IV

Restriction to be applied for on a Form RX1 in respect of applications made between 13 October 2003 and confirmation that an arrangement is in place with the Land Registry in respect of Section 9 restrictions (transitional arrangements)

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed on behalf of the proprietor by its Secretary (or by two trustees, if a charitable trust) or its solicitor or licensed conveyancer that the provisions of Section 9 of the Housing Act 1996 have been complied with.